

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN PETRONE,

Plaintiff,

-against-

HAMPTON BAYS UNION FREE SCHOOL
DISTRICT, et al.,

Defendants.
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LINDSAY, Magistrate Judge:

Defendants move by letter application dated December 1, 2005 for an order: (1) extending the deadline for the completion of Dr. Lubit's deposition through December 19, 2005; and (2) compelling Dr. Lubit to produce his complete file pertaining to the instant matter.

The defendants explain that while Dr. Lubit produced certain documents during his deposition, he indicated that he might possess additional documents related to this matter. Accordingly, the defendants called for the production of those documents pursuant to Federal Rule of Civil Procedure 34. Plaintiff objects to the production by letter dated December 2, 2005, claiming that the request is untimely and, even if it were timely, the documents sought are protected from production by the work product privilege. Plaintiff has not served a privilege log, claiming that he is relieved of the obligation to do so because the defendants' request is untimely. The court disagrees.

By order dated August 25, 2005, the undersigned extended the discovery deadline for the limited purpose of completing the deposition of Dr. Lubit. In so doing, Dr. Lubit was obligated to produce any non-privileged documents that were identified during his deposition. Thus, the plaintiff's objection to the production of such documents on the ground that the request is untimely is overruled. However, because the plaintiff also claims that the documents sought are protected from disclosure by the work product privilege, the plaintiff is directed to serve a privilege log in compliance with Local Civil Rule 26 by **December 12, 2005**. If, upon review of the privilege log, the defendants no longer seek such production, they shall notify the undersigned in writing by **December 19, 2005**. Should the defendants continue to seek the production of the documents identified on the privilege log, they shall move by letter application by **December 19, 2005**. The plaintiff's opposition thereto shall be filed by **December 23, 2005**. The court will set a deadline for the completion of Dr. Lubit's deposition and for the filing of dispositive motions upon resolution of this issue.

Dated: Central Islip, New York
December 6, 2005

SO ORDERED:

/s/

ARLENE R. LINDSAY
United States Magistrate Judge

